

IC 6-3.1-31.2

Chapter 31.2. Small Employer Qualified Wellness Program Tax Credit

IC 6-3.1-31.2-1

"Pass through entity"

Sec. 1. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

As added by P.L.218-2007, SEC.6.

IC 6-3.1-31.2-2

"Qualified wellness program"

Sec. 2. As used in this chapter, "qualified wellness program" means a wellness program that is certified by the state department of health under IC 16-46-13.

As added by P.L.218-2007, SEC.6.

IC 6-3.1-31.2-3

"Small employer"

Sec. 3. (a) As used in this chapter, "small employer" means an employer that:

- (1) is actively engaged in business;
- (2) on at least fifty percent (50%) of the working days of the employer during the preceding calendar year, employed at least two (2) but not more than one hundred (100) eligible employees, the majority of whom work in Indiana.

(b) In determining the number of eligible employees for purposes of subsection (a), employers that are affiliated employers or that are eligible to file a combined tax return for purposes of state taxation are considered one (1) employer.

As added by P.L.218-2007, SEC.6.

IC 6-3.1-31.2-4

"State tax liability"

Sec. 4. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 6-5.5 (the financial institutions tax); and
- (3) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

As added by P.L.218-2007, SEC.6.

IC 6-3.1-31.2-5

"Taxpayer"

Sec. 5. As used in this chapter, "taxpayer" means a small employer that has any state tax liability.

As added by P.L.218-2007, SEC.6.

IC 6-3.1-31.2-6

Tax credit

Sec. 6. A taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year in an amount equal to fifty percent (50%) of the costs incurred by the taxpayer during the taxable year for providing a qualified wellness program for the taxpayer's employees during the taxable year.

As added by P.L.218-2007, SEC.6.

IC 6-3.1-31.2-7

Use of pass through entity credit

Sec. 7. If a pass through entity is entitled to a credit under section 6 of this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

As added by P.L.218-2007, SEC.6.

IC 6-3.1-31.2-8

Carryover; no carryback or refund of unused credit

Sec. 8. (a) If the credit provided by this chapter exceeds the taxpayer's state tax liability for the taxable year for which the credit is first claimed, the excess may be carried forward to succeeding taxable years and used as a credit against the taxpayer's state tax liability during those taxable years. Each time that the credit is carried forward to a succeeding taxable year, the credit is to be reduced by the amount that was used as a credit during the immediately preceding taxable year.

(b) A taxpayer is not entitled to any carryback or refund of any unused credit.

As added by P.L.218-2007, SEC.6.

IC 6-3.1-31.2-9

Claiming credit

Sec. 9. To receive the credit provided by this chapter, a taxpayer must:

- (1) submit to the department with the taxpayer's state tax return or returns a copy of the certificate received from the state department of health under IC 16-46-13; and
- (2) claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department.

The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit

provided by this chapter.

As added by P.L.218-2007, SEC.6.

IC 6-3.1-31.2-10

Biennial reporting to legislative council

Sec. 10. Beginning in 2009, the department shall, not later than December 31 of each odd-numbered year, report to the legislative council in an electronic format under IC 5-14-6 concerning use of the credit provided by this chapter. A report required by this section must include:

- (1) the number of taxpayers claiming and receiving the credit;
- (2) any reports of abuse of the credit; and
- (3) other information the department considers necessary concerning the use and effectiveness of the credit;

during the preceding reporting period.

As added by P.L.218-2007, SEC.6.